

Remarks/Arguments:

I. Status

The Office Action dated March 9, 2005 has been carefully reviewed. Claims 1-19 are pending in this application. Claims 1, 8 and 14 have been amended to particularly recite the limitations that would be read into the claims as last amended when such claims are interpreted in light of the disclosure. Reconsideration of this application is respectfully requested.

II. Rejections.

Claims 1, 2, 6, 8, 9, 12, 14, 15 and 18 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,115,888 to Schneider (hereinafter "Schneider"). Claims 3-5, 7, 10, 11, 13, 16, 17 and 19 were rejected under 35 U.S.C. § 103 as being unpatentable over Schneider in view of U.S. Patent No. 5,640,002 to Rupert et al. (hereinafter "Rupert"). The examiner has indicated that:

Neither claims 1, 8, nor 14 disclose that only one scale is used. Furthermore, neither of the independent claims include the limitation that the same type of item's weight is being measured twice. Although the disclosure of the current application may include the above specific elements of the method of operating a retail terminal, these limitations are not disclosed in any of the currently amended claims. Final Office Action, Par. 6.

Reconsideration of these claims in view of the following remarks is respectfully requested.

III. Discussion Re: Patentability of Claims 1-19

Claims 1-19 were rejected as either being anticipated by Schneider or being rendered obvious by the combination of Schneider and Rupert. Neither Schneider nor Rupert disclose using a single scale to obtain two weight measurements of the same type of item. Applicants respectfully submit that independent claims 1, 8 and 14 as previously presented, when interpreted in light of the disclosure would be interpreted as including such limitations as only a single scale was recited and each following reference used the article "said" to refer to that scale and because only a single type of items was recited. Applicants recognize that the examiner disagrees with such assertion. The amendments to the claims which particularly recite that the same scale is used to take two different measurements of the same type of items renders this disagreement moot and overcomes the rejections of claims 1, 8 and 14 as being anticipated by Schneider. Claims 2-7, 9-13 and 15-19 were rejected as being anticipated by Schneider or rendered obvious by the combination of Schneider and Rupert. Schneider and Rupert, either alone or in combination do not contain all of the elements and limitations in claims 1, 8 or 14 as amended. Since claims 1, 8 and 14 are patentable over Schneider, either alone or in combination with Rupert, claims 2-7, 9-13 and 15-19, which depend from claims 1, 8 and 14, respectively are patentable over Schneider, either alone or in combination with Rupert.

Rupert, like Schneider, does not appear to teach a first weight measurement of items on a scale and obtaining a second weight measurement of the items on the scale. Therefore, even accepting the combinations as proper, which is not admitted, the proposed combination does not arrive at the claimed invention of independent claims 1, 8

and 14. Accordingly, under MPEP § 2143.03, claims 3-5, 7, 10, 11, 13, 16, 17 and 19 are patentable over the prior art.

IV. Conclusion

Applicant respectfully requests entry of the amendments and favorable consideration of the application.

A prompt and favorable action on the merits is requested.

Respectfully Submitted,



David B. Quick
Attorney for Applicants
Attorney Registration No. 31,993

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Maginot, Moore & Beck
Bank One Center Tower
111 Monument Circle, Suite 3000
Indianapolis, IN 46204-5115
Telephone: (317) 638-2922